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9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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12
13 BRADLEY S. PITTS,
14 Plaintiff,
15 v.
16 KIMBERLY SEIBEL, et al.,
17 Defendants.
18

Case No. ED CV 15-1174 DDP (MRW)

**ORDER DISMISSING ACTION
WITH PREJUDICE**

19 The Court dismisses the action with prejudice for failure to prosecute and for
20 failure of a pro se litigant to update his address with the Court.

21 * * *

22 This is a prisoner civil rights action. Plaintiff formerly was an inmate at the
23 Chuckawalla Valley State Prison. In his complaint, Plaintiff alleged that a variety
24 of correctional and medical officials denied him proper treatment for his neck and
25 back injuries. (Docket # 5 at 1.) Magistrate Judge Wilner screened the original
26 complaint. In July 2015, Judge Wilner directed the Marshals Service to serve the
27 complaint on one of the named defendants. (Id.)
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1 In the interim, however, the Post Office returned the Court's screening order
2 and other documents "undeliverable." (Docket # 8, 9, 10.) According to the
3 Court's docket, Plaintiff never updated his address with the Court as required by
4 Judge Wilner's original case management order (Docket # 5 at 4-5.) and under
5 Local Rule 41-6. That Local Rule requires a pro se litigant to update his or her
6 mailing address or risk dismissal of the action for lack of prosecution.

7 In September 2015, Judge Wilner issued an order to show cause why the
8 action should not be dismissed based on Plaintiff's failure to prosecute the case and
9 his failure to update his mailing address as required. (Docket # 11.) Plaintiff
10 failed to file any response to the OSC. The Post Office also returned that order to
11 the Court (Docket # 15) along with other documents.¹ (Docket # 14, 18.)

12 The Court has not received any filing from Plaintiff since the submission of
13 the original complaint several months ago. Notably, when the Attorney General
14 filed a motion to dismiss the action against the named and served defendant,
15 Plaintiff failed to file a timely response to that, too. (Docket # 16-18.)

16 * * *

17 Rule 41(b) provides that if a plaintiff "fails to prosecute or to comply with
18 these rules or a court order, a defendant may move to dismiss the action or any
19 claim against it." Dismissal also may be ordered by the Court sua sponte. Link v.
20 Wabash R.R., 370 U.S. 626, 629-30 (1962). Dismissal of a civil action under
21 Rule 41 may be appropriate to advance the public's interest in the expeditious
22 resolution of litigation, the court's need to manage its docket, and to avoid the risk
23 of prejudice to defendants. Omstead v. Dell, Inc., 594 F. 3d 1081, 1084 (9th Cir.
24 2010). Additionally, a court should consider the public policy favoring disposition
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26 ¹ The Postal Service indicated that these items were undeliverable and
27 that there was no forwarding address. The Court's review of the online CDCR
28 Inmate Locator indicates that Plaintiff is no longer in custody at Chuckawalla or
any other state prison.

1 of cases on their merits and the availability of less drastic alternatives in its
2 evaluation. Carey v. King, 856 F.2d 1439, 1440 (9th Cir. 1988).

3 Additionally, Local Rule 41-6 provides in pertinent part:

4 A party proceeding pro se shall keep the Court and
5 opposing parties apprised of such party's current address
6 and telephone number[.] If mail directed by the Clerk to a
7 pro se plaintiff's address of record is returned
8 undelivered by the Postal Service, and if, within fifteen
9 (15) days of the service date, such plaintiff fails to notify,
10 in writing, the Court and opposing parties of said
11 plaintiff's current address, the Court may dismiss the
12 action with or without prejudice for want of prosecution.

13 The dismissal of an action based on a litigant's failure to inform a district court of
14 his or her address is reviewed for abuse of discretion. Carey, 856 F.2d at 1440;
15 Hickman v. County of Butte, 586 F. App'x 285 (9th Cir. 2014) (same).

16 In the present action, the Court finds dismissal is appropriate. Plaintiff
17 failed to provide the Court with up-to-date contact information. As a result, an
18 order of this Court was returned as undeliverable. The magistrate judge then
19 issued an OSC and gave Petitioner ample opportunity to update his address with
20 the Court as required by Local Rule 41-6. Plaintiff's failure to do so – and the
21 Court's subsequent inability to send additional litigation documents to him –
22 demonstrates that he has no interest in advancing the action here.

23 By contrast, the Court, the defense, and the public have a strong interest in
24 terminating this action. This is particularly true given that Plaintiff effectively
25 chose to abandon his case by failing to update this Court with his current
26 whereabouts, thereby preventing any feasible advancement of the case. The Court
27 finds that dismissal is appropriate under Rule 41(b) and Local Rule 41-6.
28 Furthermore, because Plaintiff is a pro se litigant who did not abide by the Court's
recent order, no sanction short of dismissal will be effective in moving this case
forward. Carey, 856 F.2d at 1440.

1 Accordingly, for the above reasons, this action is DISMISSED with
2 prejudice. See Fed. R. Civ. P. 41(b) (dismissal under rule ordinarily “operates as
3 an adjudication on the merits”).

4 IT IS SO ORDERED.

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6 Dated: December 18, 2015



HON. DEAN D. PREGERSON
UNITED STATES DISTRICT JUDGE

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9 Presented by:



HON. MICHAEL R. WILNER
UNITED STATES MAGISTRATE JUDGE